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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/830,056	04/23/2004	Peer Toftner	3658-1003	8715

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EXAMINER

BOEHLER, ANNE MARIE M

ART UNIT	PAPER NUMBER
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3611

DATE MAILED: 09/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/830,056	Applicant(s) TOFTNER, PEER	
	Examiner Anne Marie M. Boehler	Art Unit 3611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 June 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 13-25 is/are allowed.
- 6) ☒ Claim(s) 1-5, 9-11, 26, 27, 29-31 and 36-39 is/are rejected.
- 7) ☒ Claim(s) 6-8, 12, 28, 32-35 and 40 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 4, 9-11, 26, 31, 36, 38, and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakaya (USPN 5,458,213) in view of Oliver (USPN 3,794,353).

Nakaya shows an adjustable position motorcycle with an adjustable seat 37, a movable handlebar assembly 55, and a movable footrest assembly 45. The seat includes tubes fixed to the seat that slide on rails 39. The footrest assembly includes front 47 and rear 46 footrests on each side of the motorcycle, that can be moved between different fixed positions to adjust to the desired rider position. The handlebar assembly includes an adjustment assembly that moves the handlebar between forward and rearward positions.

Nakaya fails to teach positioning a set of footrests forward of the seat. Oliver teaches providing a second set of footrests and positioning them on the down tubes, forward of the seat, in order to provide a relaxing alternate position for the rider's feet.

It would have been obvious to one of ordinary skill in the art to provide the Nakaya motorcycle with a second set of footrests forward of the seat, as taught by Oliver, in order to provide a rider with a relaxing second foot position.

Regarding claims 10 and 38, Nakaya is silent regarding the use of an actuator to adjust the seat position. However, seat adjustment actuators on automotive vehicles are old and well known. It would have been obvious to one of ordinary skill in the art to provide a seat adjustment actuator for the Nakaya seat, in order to facilitate adjustment of the seat position.

3. Claims 2, 3, 27, 29, 30, and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakaya and Oliver as applied to claims 1 and 26 above, and further in view of Dennert (USPN 6,846,018).

The combination lacks a gearshift lever for each use with the foot pegs.

Dennert teaches positioning the gear/brake levers proximate each footrest 144 for use therewith.

It would have been obvious to one of ordinary skill in the art to provide the Nakaya motorcycle with gear/brake levers proximate each footrest, for use therewith, in view of Dennert, in order to conveniently control gear shifting and braking functions.

4. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nakaya and Oliver as applied to claims 1 and 26 above, and further in view of Fukunaga (USPN 6,332,625).

Nakaya lacks a triple tree arrangement for the handlebar assembly.

Fukunaga shows a motorcycle handlebar assembly including a triple tree assembly 13 including upper 52 and lower 53 triple tree plates.

It would have been obvious to configure the front fork of the Nakaya arrangement as a triple tree assembly, as taught by Fukunaga, in order to reinforce the front fork structure.

5. Claims 6-8, 12, 28, 32-35, and 40 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. Claims 13-25 allowed.

7. Applicant's arguments with respect to claims 1-5, 9-11, 26, 27, 29-31, and 36-39 have been considered but are moot in view of the new ground(s) of rejection.

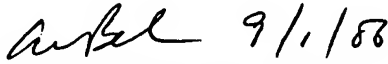
8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anne Marie M. Boehler whose telephone number is 571-272-6641. The examiner can normally be reached on 7:30-5:00, Monday-Thursday, and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on 571-272-6612. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

 9/1/88
Anne Marie M. Boehler
Primary Examiner
Art Unit 3611

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